

United States district court
Northern District of Texas
Fort Worth division

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
OCT - 7 2014
CLERK, U.S. DISTRICT COURT
By Deputy
2nd flr
CPL

ORIGINAL
UNITED STATES OF AMERICA)
v.) Civil No. 4:14-CR-00023-A
CHRISTOPHER ROBERT WEAST)

Motion to Challenge Subject Matter Jurisdiction
Stay of Proceedings to Enforce Judgment
Mandatory Judicial Notice FRCP 201(D)
Special Appearance Only
Affidavit of Fact

COMES NOW Chris Freeman (Formerly known as Christopher Robert Weast), (Hereinafter "The Private Freeman"), sui juris, by Special Appearance only, as a Natural Citizen of Heaven, Ambassador and Minister of the foreign state known as Heaven, domiciled in the Kingdom of Heaven, and non-citizen non-person transient foreigner of the Earth, and National of the united Sovereigns of Earth, and demands, wishes and wills this legislative franchise tribunal to Dismiss this alledged [case] for Lack of Subject Matter Jurisdiction as follows:

1. Inspection of the record reveals that the government has failed to enter, on the record, and for the record, an affidavit, sworn to by a human being, complaining of an injury which is concrete and particular, that is actual or imminent, that the injury is fairly traceable to the [defendant], and that a favorable decision will likely redress that injury. [See Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L. Ed. 2d 351.)]
2. "Injury in perception" would seem to be the very antithesis of "injury in fact." As the very words suggest, the latter sort of injury must be "distinct and palpable," [Warth v. Seldin, 422 U.S. 490, 501, 45 L. Ed. 2d 343, 95 S. Ct. 2197 (1975) (emphasis added)], "particular [and] concrete," [United States v. Richardson, 418 U.S. 166, 177, 41 L. Ed. 2d 678, 94 S. Ct. 2940 (1974) (emphasis added)], "specific [and] objective," [Laird v. Tatum, 408 U.S. 1, 14, 33 L. Ed. 2d 154, 92 S. Ct. 2318 (1972) (emphasis added)].
3. "The party invoking [federal] jurisdiction bears the burden of establishing" standing and, at the summary judgment stage, such a party "can no longer rest on

'mere allegations,' but must 'set forth' by affidavit 'specific facts.' [Defenders of Wildlife, 504 U.S., at 561, 112 S.Ct. 2130, 119 L.Ed. 2d 351].

4. [United States and UNITED STATES] are defined as a corporation under [Title 28 USC 3002(15)(A)]

The Private Freeman concludes that this alleged [cause] of action cannot be in the Common Law because a crime in law requires a corpus delicti, that is to say, the body of the crime or an injured party. And a corporation cannot be the body of the crime or an injured party because it is artificial, a fiction, and a fiction cannot be injured.

All cases in law, equity, admiralty or maritime, are now classified as "Civil action." Civil maritime and admiralty actions require a contract between the plaintiff and defendant for the plaintiff to have standing to sue. For the plaintiff to have standing and for the court to have jurisdiction of the subject matter, there must be in existence a bona fide contract binding the accused into the

Criminal maritime jurisdiction. The Private Freeman has not signed any contract or other obligation that binds me to the maritime or admiralty jurisdiction.

The Private Freeman did not convey any interest, right of The Private Freeman to the [United States] or any of the [Several States].

5. Admiralty and maritime jurisdictions were merged with the law and equity jurisdictions in 1966 [see: Federal Rules of Civil Procedure, notes equity to Supplementary Rules For Certain Admiralty and Maritime Claims.)] All four causes of action (or natures of the cause) which were once separate and distinct are now rolled into one set of rules and indistinguishable from one another in our modern courts. Federal Rules of Civil Procedure, (FRCP) Rule 1 provides that: "These rules govern the procedure in the [United States] district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty with the exceptions stated in rule 81." Rule 2 provides that: "There shall be one form of action to be known "civil action." FRCP Rule 9(h) provides in part: "If the claim is cognizable only in admiralty, it is an admiralty or maritime claim

For those purposes whether so identified or not." FRCP Rule 38(e) provides that: "These rules shall not be construed to create a right to a trial by jury of the issues in an admiralty or maritime claim within the meaning of rule 9(h).

6. "Subject matter jurisdiction cannot be waived by parties, conferred by consent, or ignored by court. [Babcock & Wilson v. Parsons Corp., 430 F.2d 531 (1970).]
7. Subject matter jurisdiction may not be waived and courts may raise issue *sua sponte*. FRCP, Rule 12(h).
8. Judgment of court lacking jurisdiction is void. [Burnham v. Superior Court of California, County of Marin, 495 U.S. 604, 110 S. Ct. 2105, 109 L. Ed. 2d 631 (1990).]
9. The Private Freeman declares that he is not a public officer in the [U.S.] government nor is he a Franchisee and/or a Franchise, and he never has been.
10. The Private Freeman erred by not making all appearances by Special Appearance and hereby corrects his mistake by changing all previous appearances,

both written and in flesh and blood, to special appearances only.

11. The Private Freeman is not a person as defined under [26 USC 7701(a)(30)].
12. The Private Freeman is not, and never has been, domiciled in the [United States] as statutorily defined.
13. The Private Freeman is not, and never has been, a [U.S. citizen] as defined in [8 U.S.C. §1401]
14. The Private Freeman is a transient foreigner and has not, nor could he ever, plan to stay permanently.
15. The Private ~~Freeman~~ declares that he did not consent to the courts in personam jurisdiction by being forced against my will, into the court, and kept under threat and duress by being kept in a federal prison.
16. The Private Freeman is not, and has never been, domiciled within the "federal zone" aka the [United States] as defined in [26 USC 7701(a)(9), 7701(a)(10), 7701(a)(39), or 7408(d)]

17. The [United States] is defined as federal territory within [26 USC 7701(a)(9) and (a)(10), 7701(a)(39), and 7408(d) and 4 USC 110(d)].
18. The Private Freeman is not, and has never been, a nonresident alien individual within [26 CFR 1.1441-1(c)(3)(ii).]
19. The Private Freeman is not, and never has been, a citizen of the [United States] per [8 USC 1101(a)(22)(A)] nor was the Private Freeman born in or on federal territory.
20. The Private Freeman is not, and has never been, a non-citizen National within [8 USC 1408, 8 USC 1452, and/or 8 USC 1101(a)(22)(B)].
21. The Private Freeman is, and always has been, a non-resident Non-person as far as the [United States] is concerned.
22. The Foreign Sovereign Immunities Act Protects Citizens from Changes in their Domicile and Citizenship by the Courts.

23. Foreign States: "Nations outside of the [United States]... Term may also refer to another state; i.e. a sister state. The term 'foreign nations'... should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense." [Black's Law Dictionary, Sixth Edition, p. 648]

"Generally, the states of the Union sustain toward each other the relationship of independent sovereigns or independent foreign states, except in so far as the [United States] is paramount as the dominating government, and in so far as the states are bound to recognize the fraternity among sovereignties established by the Federal Constitution, as by the provision requiring each state to give full faith and credit to the public acts, records, and judicial proceedings of the other states..." [81A Corpus Juris Secundum (C.J.S.), [United States] §29 (2003)]

24. Title 28>Part IV>Chapter 97>§ 1604

§ 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which

the [United States] is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the [United States] and of the States except as provided in sections 1605 to 1607 of this chapter.

25. The government lacks diversity of citizenship jurisdiction since this court isn't an Article III, Section 2 court of the Constitution of the United States of America and the government may not assert diversity of citizenship pursuant to [28 USC § 1332] because the "State" referred to in [28 USC § 1332] is a federal territory or possession and not a state known as Heaven.
26. The Private Freeman is entitled to have his political choice of citizenship and domicile respected and recognized by every federal court. Any court that does not do this is involving itself in "political questions", and essentially is kidnapping the identity and domicile of the person and transporting it to the federal zone, in violation of [28 USC § 1201].
27. The Private Freeman refuses to surrender his sovereignty and/or his Constitution rights and commit a crime

under [28 USC § 911] by declaring wrongfully, to be a "citizen of the [United States] under federal law.

Title 18>Part 1>Chapter 43>§ 911
§ 911, Citizen of the [United States]

Whoever falsely and wilfully represents himself to be a citizen of the [United States] shall be fined under this title or imprisoned not more than three years, or both.

28. The Private Freeman is a natural citizen of Heaven, domiciled in the Kingdom of Heaven, ambassador and minister of the foreign state known as Heaven, and a National for the Republic of Texas.

29. "No servant can serve two masters; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon [government]."
[Jesus [God] speaking in Luke 16:13, Bible, NKJV]]

30. My sincerely held religious beliefs and convictions

establish that I as a believer cannot be a "citizen" or "subject" to any earthly government. Both of these statuses depend on a voluntary choice of domicile that is within the jurisdiction of a specific earthly government. You will also note that the result of exercising one's religious rights under the First Amendment implies the ability to allow one's religious views to impact their political affiliations as well. To conclude otherwise, is to interfere with the exercise of religious rights:

31. "For our citizenship is in heaven [primarily, and not earth], from which we also eagerly wait for the Savior, the Lord Jesus Christ" [Philippians 3:20, Bible, NKJV]
32. "Come out from among them [the unbelievers] And I will receive you, I will be a Father to you, And you shall be my sons and daughters, Says the Lord Almighty." [2 Corinthians 6:17-18, Bible, NKJV]
33. "Do not love the world or the things in the world. If anyone loves [is a citizen of] the world, the love of the Father is not in Him. For all that is in the

world--the lust of the flesh, the lust of the eyes, and the pride of life--is not of the Father but is of the world. And the world is passing away, and the lust of it; but he ~~is~~ who does the will of God abides forever." [I John 2:15-17, Bible, NKJV]

34. "Adulterers and adulteresses! Do you know that friendship [and "citizenship"] with the world is enmity with God? Whoever therefore wants to be a friend [citizen or "taxpayer"] of the world makes himself an enemy of God." [James 4:4, Bible, NKJV]

35. "Pure and undefiled religion before God and the Father is this: to visit orphans and widows in their trouble, and to keep oneself unspotted from the world [and the corrupted governments and laws of the world]." [James 1:27, Bible, NKJV]

36. This court should also note that the [U.S. Supreme] Court agreed that the choice of allegiance and domicile must be voluntary and uncoerced when it said:

"The [citizen] cannot complain, because he has voluntarily submitted himself to such a form of

government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction." [United States v. Cruikshank, 92 U.S. 542 (1875) [emphasis added]]

37. In order to determine the jurisdiction of the [federal] courts to conduct criminal prosecutions, one would have to find out what the specific definition of "Act of Congress" is. We find such a definition in Rule 54(c) of the Federal Rules of Criminal Procedure prior to Dec. 2002, Wherein is defined "Act of Congress." Rule 54(c) states: "
"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession."
38. For the record, The Private Freeman makes this Declaration of Sovereign, Foreign Transient Status, and Statute Immunity, ab initio, & on January 31, 1974.
39. Declaration of Diplomatic and Foreign Immunity Status

40. This Sovereign status is foreign to and not subject to/by the status of "Statute Staples," "Chattel Property," "Citizen," "citizen," "CITIZEN," "Resident," "Subject," "Person," "legal person," "Whoever," "Taxpayer," and/or any other titles under Statutes, Rules, Regulations, Policies, common usages of the corporate [UNITED STATES], the corporate [UNITED STATES OF AMERICA], the ^{Corporate} ~~State~~ [STATE OF TEXAS], and/or any other corporate Governmental body whatsoever, without a Valid Contract.
41. Furthermore, The Private Freeman, a united Sovereign of Earth National and born on the earth, makes explicit reservation of all his Rights pursuant to Uniform Commercial Code (UCC) § 1-207, (UCC) § 1-308, (UCC) 1-103, without the [UNITED STATES] as defined in State or Federal statutes.

42. FORMAL SOVEREIGN OATH OF RENUNCIATION

The Private Freeman, svi juris, Sovereign, Having first hand knowledge of the facts as the Facts have been made known to me, hereby and herein Freely RENOUNCE all allegiance to the Foreign Venue and Jurisdiction of and within the [UNITED STATES (Washington D.C.)] I do Freely give of this

Formal Renunciation, being of sound mind, and having with me the Power of the Sovereign, by (ALLAH) GOD ALMIGHTY to make of my own volition this Oath by Formal Declaration.

In accord with the provisions set forth in [Title 8 U.S.C.A. 148L], This Sovereign DECLARES that all OFFICERS, AGENTS, EMPLOYEES, ACTORS, or otherwise OFFICIALS of the [United States], those being bound to obey the Laws and Statutes proscribed therein, are BOUND to take NOTICE of this FORMAL OATH OF RENUNCIATION. As well, the aforementioned ACTORS, AGENTS, OFFICERS, EMPLOYEES, and/or other OFFICIALS of the [United States] Government, Bound by the Laws, Statutes, Acts, and Provisions of the same Constitution that require the aforementioned entities to uphold that Constitution Shall Not Infringe Upon, Ignore, Disregard, or otherwise find of no substance and/or standing, this Formal Oath of Renunciation by Declaration.

Pursuant to [Title 8] of the [United States] Code Services, and the laws as they have been enumerated in the Holy texts, I sui juris, do ~~not~~ DECLARE

For the indigenous Peoples of the united Sovereigns of Earth,
born on and living on the soil of the earth on the place
currently known as America.

The third day of October, two thousand and fourteen
in the year of our Lord.

Know All Men and Women By These Presents, That I,
Chris Freeman, one of the sons of God and National
of Earth, living on the earth and Duly Affirm Standing
Squarly upon our Principles of Love, Truth, Peace,
Freedom and Justice Deposes and Says:

May the Peace and Blessing of Allah Be Upon He/She
Who Reads This Document. I Am a National of Earth,
Living on the earth, Bound to the Earth by birthrights
and Inheritance Anciently known as Earth which is
the Land of our Ancient Forefathers and Created by
Nature's God for Our Posterity and we have a
historical continuation here since the Beginning of
Earth as the Aboriginal and Indigenous Peoples
by Allodial Title of this land known as Earth
and are the Sovereign Lords here and Rightful
Land Barons.

I, The Private Freeman, Am an official Ambassador and Minister of the foreign state known as the united Sovereigns of ~~Earth~~ Earth and act under the capacity of Nature's God as Ambassador and Minister and anyone bearing these titles is an "agency or instrumentality" of a foreign state as an entity and is protected by the Law of Nations and Rights of Indigenous Peoples (part I + II 1994) as well the Universal Declaration of Human Rights (1948)/Declaration of the Rights of a Child 1959/Vienna Convention. Any disputes shall be of a treaty nature once said treaties shall have been established. It is the accountability of each Provincial Regency to Nationalize the united Sovereigns of Earth who are Proclaiming their nationality as well as facilitate the necessary institutions to continue our Legacy to Our Posterity including culture, religion, education, information, media, health, housing, employment, social welfare, economic affairs, lands and resource management etc.

We as Aboriginal And Indigenous Peoples ~~on~~ ^{on} Earth as a specific form of exercising our rights to self determination, have the right to autonomy or self government in matters relating to our internal

and local affairs. We bear a definite territory and permanent population, flag and a fixed government, thus we are culturally identifiable, ethnically identifiable and our historical continuation is documented in the Bible.

The before mentioned is a foreign neutral or Neutral Intinere including family and friends and are opposed to war in any form, Public Ministers are entitled to all of the immunities of the state for whom they act as recognized by the Law of Nations.

We are a Sovereign Body mentioned as We the People, We Possess Supreme Political Authority, We have all benefits and rights to the Land we stand on in accord with the Law of Nature which cannot be bought or sold, it is only gained through heredity, birth-line and pedigree.

This Declaration Certifies that Chris Freeman, *sui juris*, is a born-free human male, a mortal man with sentient and moral existence, being a Natural-born Sovereign by Birthright and by law, and do claim all

absolute, Un-a-lien-able, Fundamental Rights, priviledges, Immunities and Protections, as guaranteed, protected and secured by the original parent compact (organic), The Constitution for the United States of America (1787), as amended (1791) by the Bill of Rights, Articles 1 through X, "The Declaration of Human Rights," § 1 through 32.

43. Further, it is Certified herein that pursuant to the Foreign Sovereign Immunities Act of October 21st, 1976 [H. H. 11315] Public Law 94-583, 94th Congress, 90 Statutes at Large § 1, R.S. 1999, Title 8 U.S.C.A. 1481 is still in force and effect today.

See

Briegl v. Dulles, 248 F.2d 561, 568, 101 U.S. App. D.C. 239 @ N.21, among others. Further, the aforementioned Sovereign Texan American is Non-Incorporated, statutorily Incapacitated, Statute Immune, Tax Immune, Tax Exempt EXEMPT from LEVY and claims Diplomatic Immunity and Sovereign Immunity, "ab initio" from Day 31, January, 1974 M.E., "ad infinitum".

44. Pursuant to [Title 28 Part IV Chapter 97 § 1604], We the People of the United Sovereigns of Earth, are protected by Foreign Sovereign Immunities Act which reads as follows:

§ 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the [United States] is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the [United States] and of the States except as provided in sections 1605 to 1607 of this chapter.

45. [Title 28 USC § 1602 - 1608] are attached as Exhibits B1, Exhibit B2, Exhibit B3, Exhibit B4, B4A, B4B, B4C, Exhibit B5, Exhibit B6, and Exhibit B7A and B7B.

46. As defined in [4 USC § 110] (d) the term "State" includes any Territory or possession of the [United States] and [4 USC § 110] is attached as Exhibit B8.

47. Exhibit B9 contains the definitions of [United

States] and [“Continental United States”].

48. “It is not abuse of discretion to decide motion to dismiss for want of jurisdiction on basis of affidavits and other documents when neither party makes timely and unequivocal request for evidentiary hearing.” [Sunseri v. Macro Cellular Partners (2005, CA11 Fla) 412 F.3d 1247]

49. “If allegations of jurisdiction are appropriately challenged by motion to dismiss, plaintiff must support them by competent proof in form of affidavits, oral testimony, or depositions.” [Tarns v. Success Portrait Co. (1940, DC Tenn) 1 FRD 503].

50. “Pursuant to Rule 43(e), it is proper to support motion challenging jurisdiction of court over [person], by affidavit or by other evidence if court so directs.” [Fisher v. First Nat'l Bank (1972, SD Iowa) 338 F. Supp. 525, app. dismd (1972, CA8 Iowa) 466 F.2d 511].

51. “It is not important whether objection to jurisdiction of [federal] court is called motion to dismiss or one for summary judgment, since same relief is sought,

and difference in name is unimportant; in any event, affidavits presented are available on either motion, pursuant to 43(e)." [Central Mexico Light & Power Co. v. Munch (1940, CA2 NY) 116 F.2d 85 (criticized in Synagro-WWT, Inc. v. Louisa County (2001, WD Va) 2001 US Dist, LEXIS 10974)].

52. McBryde has forced Angela Saad and Christopher A. Curtis to attempt to get the Private Freeman to consent to them being my "Attorneys" because Corpus Juris Secundum (CJS), Volume 7, Section 4, Attorney & Client: states that "The attorney's first duty is to the courts and the public, not to the client, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter. Clients are also called "wards" of the court in regard to their relationship with their attorneys. ~~After you have~~

53. Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction

lies with the asserter. The court is only is only to rule on the sufficiency of the proof tendered." [McNutt v. GMAC, 298 US 178]. The origins of this doctrine of law may be found in [Marfield's Lessee v. Levy, 4 US 308].

54. "Once challenged, jurisdiction cannot be 'assumed,' it must be proved to exist!" [Stanard v. Olesen, 74 S.Ct. 768].

55. "The law requires PROOF OF JURISDICTION to appear on the Record of the administrative agency and all administrative proceedings." [Hagans v. Lavine, 415 U.S. 533].

56. "Citizenship, not residence, is the key fact that must be alleged in the complaint to establish diversity for a [natural person]." [McCormick v. Aderholt, 293 F.3d 1254, 1257 (11th Cir. 2002)].

57. "And it is fundamental that parties may not stipulate to federal jurisdiction." [Williams v. Warden, Fed. Bureau of Prisons, 713 F.3d 1332, 1338 (11th Cir. 2013)].

58. The Court is obliged to follow precedence decisions as stated in [Faye Anastasoff v. United States, 8th Circuit Court, 2000]. "It is on this account that our law is deemed certain, and founded in permanent principles, and not dependant on the caprice or will of judges. A more alarming doctrine could not be promulgated by any American court, than that it was at liberty to disregard all former rules and decisions, and to decide for itself, without reference to the settled course of antecedent principles."
59. The [United States] district courts are courts of limited jurisdiction (see Black's Law Dictionary - Seventh Edition) and their power is limited by precedent decisions, "while in a court of general jurisdiction, there is a presumption that the judge has subject-matter jurisdiction, such is not the case in courts of limited jurisdiction. In all courts of limited jurisdiction, there is no presumption of subject-matter jurisdiction." [State Bank of Lake Zurich v. Thill, 113 Ill.2d 294, 497 N.E.2d 1156 (1986)].

60. "Courts are constituted by authority and they cannot act beyond the power delegated to them. If they ~~do~~ act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are [254 U.S. 348, 354] not voidable, but simply void, and this even prior to reversal."

[*Elliot v. Piersol*, 1 Pet. 328, 340; *Old Wayne Life Ass'n v. McDonough*, 204 U.S. 8, 27 Supp. Ct. 236. (underline emphasis added)].

61. The cannons for a judge include: "A judge should avoid even the appearance of impropriety in all of his or her activities," yet McBryde has clearly shown his impropriety and bias against The Private Freeman ~~by~~ by having The Private Freeman forcefully removed from his courtroom simply because The Private Freeman was asking questions regarding jurisdiction, repeatedly.

62. In order for [United States] to obtain and accept grant of jurisdiction by the state, ~~and~~ department or agency must acquire ownership of parcel, it must secure consent to jurisdiction from the state, and it must indicate acceptance either by formal acceptance to the ~~go~~

governor of the state or by complying with relevant state law requirements. [U.S. v. Johnson, C.A. 2 (N.Y.) 1993, 994 F.2d 980, certiorari denied 114 S.Ct. 418, 510 U.S. 959, 126 L.Ed.2d 364].

I declare under the laws of the united states of the Union (Without the UNITED STATES) that the foregoing is true and correct to the best ^{of my knowledge.}

Executed on: October 5th, 2014 Loren Freeman
Without Prejudice - 1-308
All Rights Reserved
Under Protest
Foreign Sovereign
FREE SOVEREIGN

For the foregoing reasons, The Private Freeman expresses his will and desire to have this alleged cause Dismissed for Lack of Subject-Matter Jurisdiction.

October 5th, 2014

Loren Freeman
All Rights Reserved
Without Prejudice
Foreign Sovereign
Under Protest

Certificate of Conference

I certify that I did not conference with Aisha Saleem, representative of the government because my phone has been turned off and the employees of the BOP and FCI Fort Worth have been preventing my mail from going out as well as keeping incoming mail from me.

All Rights Reserved
without Prejudice

October 5, 2014

Chris Freeman

Chris Freeman
Foreign Sovereign
Under Protest

Certificate of Service

I hereby certify that on October 7th, 2014, the foregoing Motion was served via regular postage mail with Return Receipt to the goverment at 8D1 Cherry Street, Fort Worth, Texas, Non Domestic, Non Federal.

All Rights Reserved
without Prejudice

October 5, 2014

Chris Freeman

Foreign Sovereign
Under Protest

A1

SUBPART B -- DEFINITIONS

§ 72.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco, and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

Appraised value. The value placed upon seized property or carriers by the appraiser or appraisers designated for the purpose of determining whether the property or carriers may be forfeited administratively.

Carrier. A vessel, vehicle, or aircraft seized under 49 U.S.C. Chapter 11 for having been used to transport, carry, or conceal a contraband firearm or contraband cigarettes. Vessels, vehicles, or aircraft seized under other provisions of applicable laws shall be considered personal property.

Commercial crimes. Any of the following types of crimes (Federal or State): Offenses against the revenue laws; burglary; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime.

Contraband cigarettes. Any quantity of cigarettes in excess of 60,000, if:

- (a) The cigarettes bear no evidence of the payment of applicable State cigarette taxes in the State where the cigarettes are found;
- (b) The State in which the cigarettes are found requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes; and
- (c) The cigarettes are in the possession of any person other than any person who is:

Rule 1. Scope and Purpose

These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.

(Amended Oct. 20, 1949; July 1, 1966; Dec. 1, 1993; Dec. 1, 2007.)

HISTORY-ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Notes of Advisory Committee. 1. Rule 81 states certain limitations in the application of these rules to enumerated special proceedings.

2. The expression "district courts of the United States" appearing in the statute authorizing the Supreme Court of the United States to promulgate rules of civil procedure does not include the district courts held in the Territories and insular possessions. See *Mookini et al. v. United States*, 303 U.S. 201, 58 S. Ct. 543, 82 L. Ed. 748 (1938).

3. These rules are drawn under the authority of the act of June 19, 1934, U.S.C., Title 28, formerly § 723b (now § 2072) (Rules in actions at law; Supreme Court authorized to make), and formerly § 723c (now § 2072) (Union of equity and action at law rules; power of Supreme Court) and also other grants of rule making power to the Court. See Clark and Moore, *A New Federal Civil Procedure-I. The Background*, 44 Yale L.J. 387, 391 (1935). Under former § 723b (now § 2072) after the rules have taken effect all laws in conflict therewith are of no further force or effect. In accordance with former § 723c (now § 2072) the Court has united the general rules prescribed for cases in equity with those in actions at law so as to secure one form of civil action and procedure for both. See Rule 2 (One Form of Action). For the former practice in equity and at law see U.S.C., Title 28, formerly §§ 723 and 730 (now §§ 2071-2073) (conferring power on the Supreme Court to make rules of practice in equity) and the former Equity Rules promulgated thereunder; U.S.C., Title 28, former § 724 (Conformity Act); former Equity Rule 22 (Action at Law Erroneously Begun as Suit in Equity-Transfer); former Equity Rule 23 (Matters Ordinarily Determinable at Law When Arising in Suit in Equity to be Disposed of Therein); U.S.C., Title 28, former §§ 397 (Amendments to pleadings when case brought to wrong side of court), and 398 (Equitable defenses and equitable relief in actions at law).

4. With the second sentence compare U.S.C., Title 28, former §§ 777 (Defects of form; amendments), 767 (Amendment of process); former Equity Rule 19 (Amendments Generally).

Effect of 1948 amendment. The amendment, effective Oct. 20, 1949, substituted the words "United States district courts" for the words "district courts of the United States".

Notes of Advisory Committee on 1966 amendments. This is the fundamental change necessary to effect unification of the civil and admiralty procedure. Just as the 1938 rules abolished the distinction between actions at law and suits in equity, this change would abolish the distinction between civil actions and suits in admiralty. See also Rule 81.

Notes of Advisory Committee on 1993 amendments. The purpose of this revision, adding the words "and administered" to the second sentence, is to recognize the affirmative duty of the court to exercise the authority conferred by these rules to ensure that civil litigation is resolved not only fairly,

Rule 2. One Form of Action

There is one form of action—the civil action.

(Amended Dec. 1, 2007.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Notes of Advisory Committee. 1. This rule modifies U.S.C., Title 28, former § 384 (Suits in equity, when not sustainable). U.S.C., Title 28, formerly §§ 723 and 730 (now §§ 2071-2073) (conferring power on the Supreme Court to make rules of practice in equity), are unaffected insofar as they relate to the rule making power in admiralty. These sections, together with former § 723b (now § 2072) (Rules in actions at law; Supreme Court authorized to make) are continued insofar as they are not inconsistent with former § 723c (now § 2072) (Union of equity and action at law rules; power of Supreme Court). See Note 3 to Rule 1. U.S.C., Title 28, former §§ 724 (Conformity Act), 397 (Amendments to pleadings when case brought to wrong side of court) and 398 (Equitable defenses and equitable relief in actions at law) are superseded.

2. Reference to actions at law or suits in equity in all statutes should now be treated as referring to the civil action prescribed in these rules.

3. This rule follows in substance the usual introductory statements to code practices which provide for a single action and mode of procedure, with abolition of forms of action and procedural distinctions. Representative statutes are N.Y. Code 1848 (Laws 1848, ch 379) § 62; N.Y.C.P.A. (1937) § 8; Calif. Code Civ. Proc. (Deering, 1937) § 307; 2 Minn. Stat. (Mason, 1927) § 9164; 2 Wash. Rev. Stat. Ann. (Remington, 1932) §§ 153, 255.

Notes of Advisory Committee on 2007 amendments. The language of Rule 2 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Exhibit A4

Rule 82. Jurisdiction and Venue Unaffected

These rules do not extend or limit the jurisdiction of the district courts or the venue of actions in those courts. An admiralty or maritime claim under Rule 9(h) is not a civil action for purposes of 28 U.S.C. §§ 1391-1392.

(Amended Oct. 20, 1949; July 1, 1966; Dec. 1, 2001; Dec. 1, 2007.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Notes of Advisory Committee. These rules grant extensive power of joining claims and counterclaims in one action, but, as this rule states, such grant does not extend federal jurisdiction. The rule is declaratory of existing practice under the former Federal Equity Rules with regard to such provisions as former Equity Rule 26 on Joinder of Causes of Action and former Equity Rule 30 on Counterclaims. Compare Shulman and Jaegerman, Some Jurisdictional Limitations on Federal Procedure, 45 Yale L. J. 393 (1936).

Notes of Advisory Committee on 1948 amendments. The amendment substituted the words "United States district courts" for "district courts of the United States."

Notes of Advisory Committee on 1966 amendments. Title 28, U.S.C., § 1391(b) provides: "A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought only in the judicial district where all defendants reside, except as otherwise provided by law." This provision cannot appropriately be applied to what were formerly suits in admiralty. The rationale of decisions holding it inapplicable rests largely on the use of the term "civil action": i.e., a suit in admiralty is not a "civil action" within the statute. By virtue of the amendment to Rule 1, the provisions of Rule 2 convert suits in admiralty into civil actions. The added sentence is necessary to avoid an undesirable change in existing law with respect to venue.

Notes of Advisory Committee on 2001 amendments. The final sentence of Rule 82 is amended to delete the reference to 28 U.S.C. § 1393, which has been repealed.

Notes of Advisory Committee on 2007 amendments. The language of Rule 82 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

*8 USC***§ 1408.** Nationals but not citizens of the United States at birth

Unless otherwise provided in section 301 of this title [8 USCS § 1401], the following shall be nationals, but not citizens, of the United States at birth:

- (1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;
- (2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;
- (3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and
- (4) A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years--
 - (A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and
 - (B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 301(g) [8 USCS § 1401(g)] shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

(June 27, 1952, ch 477, Title III, Ch 1, § 308, 66 Stat. 238; Aug. 27, 1986, P. L. 99-396, § 15(a), 100 Stat. 842; Aug. 27, 1986, P. L. 99-396, § 15(a), 100 Stat. 842; Oct. 24, 1988, P. L. 100-525, § 3(2), 102 Stat. 2614.)

26 USC

§ 7343. Definition of term "person."

The term "person" as used in this chapter [26 USCS §§ 7201 et seq.] includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch 736, 68A Stat. 872.)



Exhibit A7

FRCP 9

(h) **Admiralty or Maritime Claim.**

(1) *How Designated.* If a claim for relief is within the admiralty or maritime jurisdiction and also within the court's subject-matter jurisdiction on some other ground, the pleading may designate the claim as an admiralty or maritime claim for purposes of Rules 14(c), 38(e), and 82 and the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. A claim cognizable only in the admiralty or maritime jurisdiction is an admiralty or maritime claim for those purposes, whether or not so designated.

(2) *Designation for Appeal.* A case that includes an admiralty or maritime claim within this subdivision (h) is an admiralty case within 28 U.S.C. § 1292(a)(3).

(Amended July 1, 1966; July 1, 1968; July 1, 1970; Aug. 1, 1987; Dec. 1, 1997; Dec. 1, 2006; Dec. 1, 2007.)

FRCP

TITLE XI. GENERAL PROVISIONS

Rule 81. Applicability of the Rules in General; Removed Actions

(a) **Applicability to Particular Proceedings.**

(1) *Prize Proceedings.* These rules do not apply to prize proceedings in admiralty governed by 10 U.S.C. §§ 7651-7681.

(2) *Bankruptcy.* These rules apply to bankruptcy proceedings to the extent provided by the Federal Rules of Bankruptcy Procedure.

(3) *Citizenship.* These rules apply to proceedings for admission to citizenship to the extent that the practice in those proceedings is not specified in federal statutes and has previously conformed to the practice in civil actions. The provisions of 8 U.S.C. § 1451 for service by publication and for answer apply in proceedings to cancel citizenship certificates.

(4) *Special Writs.* These rules apply to proceedings for habeas corpus and for quo warranto to the extent that the practice in those proceedings:

(A) is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; and

(B) has previously conformed to the practice in civil actions.

(5) *Proceedings Involving a Subpoena.* These rules apply to proceedings to compel testimony or the production of documents through a subpoena issued by a United States officer or agency under a federal statute, except as otherwise provided by statute, by local rule, or by court order in the proceedings.

(6) *Other Proceedings.* These rules, to the extent applicable, govern proceedings under the following laws, except as these laws provide other procedures:

(A) 7 U.S.C. §§ 292, 499g(c), for reviewing an order of the Secretary of Agriculture;

(B) 9 U.S.C., relating to arbitration;

(C) 15 U.S.C. § 522, for reviewing an order of the Secretary of the Interior;

(D) 15 U.S.C. § 715d(c), for reviewing an order denying a certificate of clearance;

(E) 29 U.S.C. §§ 159, 160, for enforcing an order of the National Labor Relations Board;

(F) 33 U.S.C. §§ 918, 921, for enforcing or reviewing a compensation order under the Longshore and Harbor Workers' Compensation Act; and

(G) 45 U.S.C. § 159, for reviewing an arbitration award in a railway-labor dispute.

(b) **Scire Facias and Mandamus.** The writs of scire facias and mandamus are abolished. Relief previously available through them may be obtained by appropriate action or motion under these rules.

(c) **Removed Actions.**

(1) *Applicability.* These rules apply to a civil action after it is removed from a state court.

(2) *Further Pleading.* After removal, repleading is unnecessary unless the court orders it. A defendant who did not answer before removal must answer or present other defenses or objections under these rules within the longest of these periods:

- (A) 21 days after receiving—through service or otherwise—a copy of the initial pleading stating the claim for relief;
- (B) 21 days after being served with the summons for an initial pleading on file at the time of service; or
- (C) 7 days after the notice of removal is filed.

(3) *Demand for a Jury Trial.*

- (A) *As Affected by State Law.* A party who, before removal, expressly demanded a jury trial in accordance with state law need not renew the demand after removal. If the state law did not require an express demand for a jury trial, a party need not make one after removal unless the court orders the parties to do so within a specified time. The court must so order at a party's request and may so order on its own. A party who fails to make a demand when so ordered waives a jury trial.
- (B) *Under Rule 38.* If all necessary pleadings have been served at the time of removal, a party entitled to a jury trial under Rule 38 must be given one if the party serves a demand within 14 days after:

- (i) it files a notice of removal; or
- (ii) it is served with a notice of removal filed by another party.

(d) Law Applicable.

- (1) *"State Law" Defined.* When these rules refer to state law, the term "law" includes the state's statutes and the state's judicial decisions.
- (2) *"State" Defined.* The term "state" includes, where appropriate, the District of Columbia and any United States commonwealth or territory.
- (3) *"Federal Statute" Defined in the District of Columbia.* In the United States District Court for the District of Columbia, the term "federal statute" includes any Act of Congress that applies locally to the District.

(Amended April 3, 1941; March 19, 1948; Oct. 20, 1949; Aug. 1, 1951; July 1, 1963; July 1, 1966; July 1, 1968; July 1, 1971; Aug. 1, 1987; Dec. 1, 2001; Dec. 1, 2002; Dec. 1, 2007; Dec. 1, 2009.)

*Exhibit A9**8 USC*

§ 1452. Certificates of citizenship or U.S. non-citizen national status; procedure

(a) Application to Attorney General for certificate of citizenship; proof; oath of allegiance. A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138; 8 U.S.C. 601), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 301 of this title [8 USCS § 1401(c), (d), (e), or (g)], or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139; 8 U. S. C. 603, 605), or under the provisions of section 303 of this title [8 USCS § 1403], may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b) Application to Secretary of State for certificate of non-citizen national status; proof; oath of allegiance. A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon--

- (1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and
- (2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this Act of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.

(June 27, 1952, ch 477, Title III, Ch 2, § 341, 66 Stat. 263; Dec. 29, 1981, P. L. 97-116, § 18(p), 95 Stat. 1621; Aug. 27, 1986, P. L. 99-396, § 16(a), 100 Stat. 843; Nov. 14, 1986, P. L. 99-653, § 22, 100 Stat. 3658; Oct. 24, 1988, P. L. 100-525, § 8(q), 102 Stat. 2618; Dec. 12, 1991, P. L. 102-232, Title III, § 305(m)(8), 105 Stat. 1750; Oct. 25, 1994, P. L. 103-416, Title I, § 102(b), 108 Stat. 4307.)

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